

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Shevani Patel	Team: Squad #3	CCRB Case #: 201504152	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 05/14/2015 6:14 PM, Friday, 05/15/2015	Location of Incident: West 140th Street and Hamilton Place	Precinct: 30	18 Mo. SOL 11/14/2016	EO SOL 11/14/2016	
Date/Time CV Reported Mon, 05/25/2015 1:37 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 05/25/2015 1:37 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Victor Gonzalez	16688	931698	030 PCT
2. POM Hipolito Duran	27794	951091	030 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Hipolito Duran	Abuse: PO Hipolito Duran refused to provide his name and/or shield number to § 87(2)(b) and an individual.	
B.POM Victor Gonzalez	Abuse: PO Victor Gonzalez refused to provide his name and/or shield number to § 87(2)(b)	
C.POM Victor Gonzalez	Discourtesy: PO Victor Gonzalez spoke rudely to § 87(2)(b)	

Case Summary

On May 14, 2015, at approximately 6:14 p.m., PO Hipolito Duran and PO Victor Gonzalez of the 30th Precinct approached a group of unidentified young girls for tampering with an emergency box (NYPD and FDNY 911 call box) in the vicinity of West 140th Street and Hamilton Place in Manhattan. As the officers were questioning the group and attempting to fill out a juvenile report, § 87(2)(b) and several other people gathered around. § 87(2)(b) advised the girls to collect the names and shield numbers of both officers. § 87(2)(b) and an unidentified male who was recording a video asked PO Duran for his name, but PO Duran refused to answer (**Allegation A**). § 87(2)(b) alleged that one of the girls and herself also asked PO Gonzalez for his name, but he did not provide it to her (**Allegation B**). PO Gonzalez attempted to handcuff one of the girls, but after a struggle in which several members of the crowd physically interfered, the officers left without arresting or summoning anyone. After PO Gonzalez got into the driver's seat of the car, he told § 87(2)(b) "You better go lose some weight" (**Allegation C**).

§ 87(2)(g)

This case was originally assigned to Inv. Cassandra Fenkel. On May 28, 2015, the case was reassigned to the undersigned investigator.

Mediation, Civil and Conviction Histories

- On May 26, 2015 and May 27, 2015, mediation was presented to § 87(2)(b). She opted to have her complaint investigated.
- As of August 4, 2015, no Notice of Claim has been filed with the City of New York with regard to this incident.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (Board Review 02).
- PO Duran has been a member of the NYPD for four years § 87(2)(b)
- PO Gonzalez has been a member of the NYPD for 13 years and has had 12 allegations against him involving seven cases with no substantiated complaints. He has had one prior discourtesy allegation against him, which was unfounded.

Potential Issues Regarding Witnesses and Victims

- The investigation was unable to obtain identifying or contact information for the girls who the officers first encountered, as well as several members of the crowd. On June 9, 2015, Inv. Stanislav Sazonov and Inv. Bernardo Gutierrez went to the incident location at the approximate occurrence time. There were no civilians in the vicinity of the building at the time of the fieldwork to whom screenshots of video could be shown. The investigators visited § 87(2)(b) who stated that she has not seen any of the witnesses or victims since the incident and believed they were not from the neighborhood (Board Review 03).
- § 87(2)(b)'s daughter, § 87(2)(b) was present during the incident. On June 11, 2015, § 87(2)(b) provided a telephone statement. § 87(2)(b) stated that a woman only

known to her as § 87(2)(b) who lives in the corner building at the incident location was present. Two letters were sent to the corresponding address, but both were returned by The USPS. A White Pages search of the address had no corresponding listings.

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED] Emails were sent to him on June 2, 2015 and June 8, 2015. These elicited no response. On June 8, 2015, a Lexis Nexis search revealed 23 results for § 87(2)(b) [REDACTED]. There were eight current listings, but none were near to the incident location. Without additional information, these results could not be narrowed down. On June 12, 2015, a search of the Facebook page did not find any comment or page owned by § 87(2)(b) [REDACTED] § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Summary of Video Footage

A video of the incident, § 87(2)(b) [REDACTED] was uploaded to YouTube § 87(2)(b) [REDACTED] (For a full detailed and time-stamped transcription see Board Review 04 and for a link to the video see Board Review 05). The video is 8 minutes and 15 seconds long. The following is a summary of the video, § 87(2)(g) [REDACTED]

The video starts with PO Gonzalez walking two young girls (one wearing white and one wearing black), one by one, towards the unmarked RMP. PO Duran stands behind him. The man filming states that he is § 87(2)(b) [REDACTED]. For a few minutes, the officers speak with the two girls. § 87(2)(b) [REDACTED] appears and stands closely behind PO Duran. The girls denying having pressed any button and blame someone off screen.

PO Gonzalez gets in the front seat and the girl in black goes to his open door. § 87(2)(b) [REDACTED] begins to yell at the officers, making statements about a baby crying and how the officers had no right to be putting their hands on a 14-year-old. PO Gonzalez says, "You know my job better than I do." § 87(2)(b) [REDACTED] closer approaches him and says, "I sure don't, but I know one thing, you're in the wrong." He shuts the door of the car.

§ 87(2)(b) [REDACTED] points at PO Duran and says, "What's your name?" She tells the girls, "Find out both of their names and give it to your parents because they had no business touching you." The man recording the video walks closer to PO Duran and says, "What's your name sir?" § 87(2)(b) [REDACTED] says, "What's your name?" PO Duran says to the man recording, "I don't need to give it to you." § 87(2)(b) [REDACTED] yells, "What's your name?" PO Duran points to § 87(2)(b) [REDACTED] and says, "I'll give it you when we're done." The man recording says, "What precinct are you from?" He responds, "30 Precinct." § 87(2)(b) [REDACTED] yells, "That's the problem. Ain't nothing ever good came out of 30."

The recording moves to the back of the police vehicle the man recording says, "§ 87(2)(e) [REDACTED] (determined by the investigation to be the license plate number of PO Gonzalez's and PO Duran's RMP). § 87(2)(b) [REDACTED] loudly tells the girls to collect the names of the officers and to tell their

parents. § 87(2)(b) faces PO Gonzalez who is still seated in the car. She says, "You always a wise ass." The man recording says, "The penal code says you ask for his name and badge they have to give it you. They have to give you ample time to write it down." A loud siren drives by for about 15 seconds. No conversation could be heard during this time. The girl in black is speaking to PO Duran. PO Gonzalez tells the girl to come over to the car. She leans into the window. § 87(2)(b) yells, "Ask him what his name is! First and last name!" The girl speaks to the officer in the window. No conversation could be heard as § 87(2)(b) and the man recording are yelling. The man recording says, "They said she pushed a button or something like that." § 87(2)(b) says, "He grabbed a 14-year-old and told her to come over here. You don't even know what the circumstances is. Trying to say... and this little one, he got her crying. Really? Come on now. Y'all make sure you tell her parents."

The girl in black yells to PO Gonzalez about how she had done nothing. He gets out of the car and she backs up. He closely approaches her, as § 87(2)(b) is against his left arm saying, "You can't." He pushes her back. The girl in black walks backward, and he grabs her wrists. She pulls away. Another young woman closely approaches along with PO Duran who asks her to step back. A crowd gets closer to the officers. The girl in white also approaches with her phone out. Both of these women grab the officers' arms. The girl in black pushes against PO Gonzalez as he continuously reaches for her arms. She grabs onto PO Gonzalez's shirt. PO Duran holds his arm out and continuously tells them to get back. Three more women, including § 87(2)(b) pull the girl in black off of the officers.

PO Duran tells them to stop and holds his arm out. The three young girls are entangled with the officers' hands and they all move back as a group. The officers and the three young girls let go of one another. PO Gonzalez attempts to grab the girl in black's arm from behind and she pulls her right arm upwards and moves to face him. She runs backwards and a woman in a grey t-shirt grabs her. He runs towards them. PO Duran grabs PO Gonzalez and holds him back from the group.

Everyone physically disengages and the women yell at the officers. Both officers walk away. PO Gonzalez gets into the driver's seat. Another unmarked light colored sedan arrives. Two male officers in plainclothes exit. The officer on the passenger's side is black male. The man recording says, "16688" (identified by investigation as PO Gonzalez's shield number).

The women continue to yell. A female voice says, "You better go home and mind your own business." A male voice says, "You better go lose some weight." People in the crowd begin screaming at PO Gonzalez. They curse at him. A female voice says, "Fucking fatass bitch." The officers drive away.

Findings and Recommendations

Allegations Not Pleaded

- **Abuse of Authority- refusal to provide name and shield:** § 87(2)(b) stated that she told the young girls to request the names of the officers, but neither officer provided them with their information. § 87(2)(b) stated that the girl in black asked PO Gonzalez for his name and shield number, but § 87(2)(b) never heard his response. In the video, neither of the two

girls can be heard asking the officers for their names, but there are parts in which the girl in black is speaking with each officer and typing into her phone. PO Duran stated that he told her his name and she wrote it on her phone. She confirmed to him that she had it. He also said that she then went over to PO Gonzalez in the car and recorded his name in her phone too. PO Gonzalez corroborated this. He said that § 87(2)(b) told the girls to make sure that they retrieve both officers' information and to take photographs of PO Gonzalez. The girl asked him for his name. He said, "PO Gonzalez." § 87(2)(b) or someone in the crowd then said, "Tell him to give you his shield number." Before the girl even asked, PO Gonzalez said, "16688." § 87(2)(g)

Allegation A –Abuse of Authority: PO Hipolito Duran refused to provide his name and/or shield number to § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) filed the complaint over the call processing system on May 25, 2015 and provided additional information over the phone on May 26, 2014 (see 245). She was interviewed at the CCRB on May 27, 2015 (Board Review 06). When she filed the complaint over the call processing system and when she provided her sworn statement, § 87(2)(b) stated that she asked PO Duran for his name, but he did not reveal it to her.

In the video, § 87(2)(b) points at PO Duran and says, "What's your name?" She tells the young women, "Find out both of their names and give it to your parents because they had no business touching you." The man recording the video walks closer to PO Duran and says, "What's your name sir?" § 87(2)(b) says, "What's your name?" PO Duran says to the man recording, "I don't need to give it to you." § 87(2)(b) yells, "What's your name?" PO Duran points to § 87(2)(b) and says, "I'll give it to you when we're done." The man recording says, "What precinct are you from?" He responds, "30 Precinct."

PO Duran was interviewed at the CCRB on July 9, 2015 (Board Review 07). According to him, the person who took the video requested his information two or three times. PO Duran could not recall if the man requested his name, shield number or both. He did not provide his information to him. PO Duran explained that he was not interacting with anyone in the crowd, but only interacting with the youth so he did not provide his information to him. PO Duran did not recall anyone else in the crowd requesting his information. When presented with a photograph of § 87(2)(b) he stated that he recognized her, but he did not recall her directly asking him for his name or shield number. He explained that § 87(2)(b) had advised the youth to request this information from officers. He testified that he told the girl his name. The video also suggests that he gave it to her. PO Duran did not think he gave his shield number or name to § 87(2)(b). When PO Duran was presented with the video, he confirmed that in the video he said, "I don't need to give it to you," to the person filming the incident. He further stated that he did not independently recall § 87(2)(b) requesting his name or making that statement.

PO Gonzalez was interviewed at the CCRB on June 12, 2015 (Board Review 09). He did not hear anyone ask PO Duran for his name or his shield number.

Patrol Guide Procedure 203-09 stipulates that officers must clearly state [their] rank, name, shield number and command or otherwise provide them, to anyone who requests [them] to do so, allowing the person ample time to note this information (Board Review 10).

§ 87(2)(g)

Allegation B –Abuse of Authority: PO Victor Gonzalez refused to provide his name and/or shield number to § 87(2)(b)

When she filed the complaint over the call processing system, § 87(2)(b) alleged that she asked PO Gonzalez for his shield number and he refused to provide it. In her telephone statement, she corroborated this, adding that he tucked the shield into his shirt. In her sworn statement, she alleged that PO Gonzalez refused to provide her with his name. § 87(2)(b) did not hear PO Gonzalez say his name or shield number.

The video does not capture § 87(2)(b) directly requesting PO Gonzalez’s name or shield number. § 87(2)(g) § 87(2)(b) is heard advising the girls to request PO Gonzalez’s name in the video. Towards the conclusion, the man recording says, “16688” (PO Gonzalez’s shield number), but it is not clear as to when and how he learned that.

PO Gonzalez stated that § 87(2)(b) told both of the girls to get the officers’ information, which he provided (see Allegations Not Pleaded), but that she never directly requested any of his information. PO Duran corroborated this, stating that he only recalled § 87(2)(b) telling the girls to get the officers’ information.

§ 87(2)(g)

Allegation C: Discourtesy: PO Victor Gonzalez spoke rudely to § 87(2)(b)

When she filed the complaint over the call processing system, § 87(2)(b) made no mention of PO Gonzalez’s discourteous mark. In her telephone statement, § 87(2)(b) alleged that PO Gonzalez told her, “Y’all need to lose some weight.” In her sworn statement, § 87(2)(b) alleged that PO Gonzalez got into the front seat of the RMP, rolled down the window and said, “Your fat ass need to lose some weight,” before he drove off.

§ 87(2)(b) did not hear what PO Gonzalez said to § 87(2)(b) after he went into the RMP.

In the video, once both officers walk away from the crowd, PO Gonzalez gets into the driver’s seat as the women in the crown continue to yell. A female voice says, “You better go home and

mind your own business." A male voice says, "You better go lose some weight." People in the crowd begin screaming at PO Gonzalez. They curse at him. A female voice says, "Fucking fatass bitch." The officers drive away.

PO Gonzalez denied saying, "Your fatass need to lose some weight," telling anyone to lose weight or making any statements about weight. When presented with the video, he did not recognize the voice to be his. He did not know who made the remark.

PO Duran never said or heard PO Gonzalez say, "Your fatass need to lose some weight." He never heard PO Gonzalez make any mention of § 87(2)(b)'s weight. When presented with the video, he stated that he did not recognize the voice which made the remark.

Patrol Guide Procedure 203-09 stipulates that officers must be courteous and respectful (Board Review 10).

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

Pod:

Investigator: _____
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date